

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

7 NICK SPAGNOLO,) 2:12-cv-00184-ECR-RJJ
8 Plaintiff,) **Order**
9 vs.)
10 DR. ADAM LOUSIGNONT,)
11 Defendant.)
12)

I. Background

15 On February 3, 2012, Plaintiff, proceeding *pro se*, filed a Motion
16 for Leave to Proceeding *in forma pauperis* (#1). The attached
17 Complaint (#1-1) alleges a cause of action arising under 42 U.S.C. §
18 1983 against Defendant Dr. Adam Lousignont and seeks relief for
19 alleged malpractice in dental care.

II. Discussion

22 A. Plaintiff's Motion for Leave to Proceed In Forma Pauperis (#1)

23 Plaintiff's application indicates that his income from the Social
24 Security Administration for Supplemental Security Income is \$698.00
25 per month. He lists \$1,600.00 in cash or savings. Because Plaintiff
26 has made the required showing under 28 U.S.C. § 1915 to proceed *in
27 forma pauperis*, the Court will grant Plaintiff's motion (#1).

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1 **B. Plaintiff's Complaint (#1-1)**

2 The Court must subject each civil action commenced pursuant to 28
 3 U.S.C. § 1915(a) to mandatory screening and order dismissal of any
 4 claim it finds "frivolous, malicious, failing to state a claim upon
 5 which relief may be granted, or seeking monetary relief from a
 6 defendant immune from such relief." 28 U.S.C. § 1915(e)(2)(B); see
 7 also Lopez v. Smith, 203 F.3d 1122, 1126-27 (9th Cir. 2000) (*en banc*)
 8 (holding that 28 U.S.C. § 1915(e) requires the Court to *sue sponte*
 9 dismiss an *in forma pauperis* complaint that fails to state a claim).
 10 A complaint that lacks any basis for federal subject matter
 11 jurisdiction is subject to dismissal pursuant to § 1915(e)(2). Cato
 12 v. United States, 70 F.3d 1103, 1106-07 (9th Cir. 1998).

13 The Court must dismiss Plaintiff's Complaint (#1-1) for failure
 14 to state a claim. "To sustain an action under section 1983, a
 15 plaintiff must show (1) that the conduct complained of was committed
 16 by a person acting under color of state law; and (2) that the conduct
 17 deprived the plaintiff of a federal constitutional or statutory
 18 right." Hydrick v. Hunter, 500 F.3d 978, 987 (9th Cir. 2007)
 19 (citation omitted). Plaintiff has not alleged that Defendant is a
 20 state actor, nor has Plaintiff alleged a violation of a federal
 21 Constitutional or statutory right. Rather, the face of the Complaint
 22 (#1-1) reveals that Plaintiff seeks damages for violations of state
 23 law, such as negligent dental care, medical malpractice, and/or
 24 violation of Nevada's dental regulation statutes. Because Plaintiff
 25 has failed to state claim upon which relief may be granted,
 26 Plaintiff's Complaint (#1-1) must be dismissed.

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III. Conclusion

IT IS, THEREFORE, HEREBY ORDERED THAT Plaintiff's Complaint (#1-

4 || 1) is **DISMISSED**.

The Clerk shall enter judgment accordingly.

8 DATED: May 24, 2012.

Edward C. Reed.
UNITED STATES DISTRICT JUDGE